ONTARIO
REVIEW BOARD

*Office of the Honorable*
*Douglas H. Carruthers, Q.C.*

January 28, 2002

The Honourable Tony Clement
Minister of Health and Long-Term Care
80 Grosvenor Street
10th Floor, Hepburn Block
Toronto, ON M7A 2C4

Dear Minister:

**Re: Ontario Review Board Annual Report**

On behalf of the Ontario Review Board, it is my pleasure to submit our 2000/2001 Annual Report pursuant to the new MBS Agency Establishment and Accountability Directive.

Yours sincerely,

The Honourable Douglas H. Carruthers, Q.C.
Chair
Ontario Review Board

*151 Bloor Street West, 10th Floor, Toronto, ON M5S 2T5 • Tel (416) 327-8858 Fax (416) 327-8867*

2008-03743/

# ONTARIO REVIEW BOARD

## *Annual Report 2000/2001*

*(Fiscal Period - April 1, 2000 to March 31, 2001)*

Ontario

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ONTARIO
REVIEW BOARD

*Office of the Honorable*
*Douglas H. Carruthers, Q.C.*

## Message from the Chair

The Ontario Review Board is an integral part of the criminal justice system, not only in this province, but also in the country. While it is *treated* as having been established under the laws of the province, the Board was actually established under Part XX.1 of the *Criminal Code* of Canada, and as such operates under federal jurisdiction - *not* under the laws of the province. This fact alone sets the Ontario Review Board apart from other Ontario tribunals.

Every case tried by the Board on any given day involves two basic rights - the right to liberty, and the right to be safe and secure living in one's community. There can be no more complex issues than these tried anywhere, in any form. At least once a day, of every week, of every year during which the Board is sitting, one or more individuals are detained for a period of one year.

To further demonstrate the importance of the role of the Board in the criminal justice system, it is interesting to note that the framers of Bill C-30, the amendment to the *Criminal Code* of Canada which brought about Part XX.1, deemed that appeals from the decision of the Board be fast tracked and made directly to the Court of Appeal of each province.

Every year, the Board meets the demands of its high volume workload guided by the *Criminal Code,* and the need to balance an individual's right to liberty and the public's right to safety. As Chair of the Board, I commend the members and staff for their commitment and dedicated performance in the past year, and I look forward to their continued efforts as we address the many challenges that lie ahead.

The Honourable Douglas H. Carruthers, Q.C.

## OVERVIEW OF THE BOARD

The Ontario Review Board is a unique tribunal that forms a critical component of the Canadian justice system. While it operates within the province of Ontario, the Ontario Review Board is not governed by provincial legislation, but by federal legislation.

Established under Part XX.1 of the *Criminal Code* of Canada, the role of the Ontario Review Board is clearly defined as follows:

> *A Review Board shall be established or designated for each province to make or review dispositions concerning any accused in respect of whom a verdict of not criminally responsible by reason of mental disorder or unfit to stand trial is rendered, and shall consist of not fewer than five members appointed by the Lieutenant Governor in council of the province..."(Part XX.1)*

While the role of each provincial Review Board is the same from province to province, the *Criminal Code* states that *a Review Board shall be treated as having been established under the laws of the province."* This statement recognizes the fact that the efficiency and effectiveness of each board in each province hinges on its connection to the province's psychiatric facilities and mental health delivery system.

The Board's procedures are directed solely by the *Criminal Code* of Canada and the Public Inquiries Act. Unlike adjudicative agencies that are created by provincial statute, the Ontario Review Board is not subject to the provisions of the Statutory Powers and Procedures Act. Appeals from decisions of the Ontario Review Board are directly to the Court of Appeal for Ontario.

## JURISDICTION OF THE BOARD

The Ontario Review Board has jurisdiction over individuals, referred to as "accused," whom the Ontario courts have found to be unfit to stand trial due to mental disorder, or not criminally responsible for the commission of a crime due to a mental disorder.

Individuals found to be unfit to stand trail are under the jurisdiction of the Board until the Board finds them fit to stand trial. At that time, they are returned to the courts to be tried for their offences.

Functioning in the same manner as a court, the Board's responsibility is to take into consideration the "*need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused.*"

These complex decisions, made in each and every hearing conducted by the Ontario Review Board, carry significant ramifications as they affect the liberty of individuals and the safety of the public. The importance of the Board's decisions as they relate to these basic human rights is further demonstrated by that fact that the *Criminal Code* states that appeals made to the Board's decisions go directly to the Court of Appeal for Ontario.

Decisions of the Board are referred to as dispositions. Following the hearings, the Ontario Review Board renders one of three dispositions:

1) An absolute discharge for an accused person who is not criminally responsible, if the accused person is not a significant threat to the safety of the public;
2) A discharge subject to conditions; or
3) Detention in a hospital, subject to conditions.

For those detained in hospital, the Board issues a warrant for detention as set out in the *Criminal Code*.

Other than absolute discharges, dispositions of the Board are in effect for up to a year at which time a review hearing is held before the Board.

Parties to a hearing may include: the accused; the person in charge of the hospital in which the accused is detained or to which the accused reports; the Attorney General of the province where the disposition is to be made or from which the accused is transferred; and other persons who have a substantial interest in protecting the interests of the accused if the Review Board is of the opinion that it is just to designate such persons as parties.

## ORGANIZATION OF THE BOARD

In carrying out its mandate as directed by the *Criminal Code,* the Board operates in a fashion similar to the courts.

The Ontario Review Board is made up of 124 members. In addition to the Chair and Legal Counsel, Board members include 22 Alternate Chairs, 30 Lawyers, 39 Psychiatrists, 9 Psychologists, and 24 Public Members. All are residents of Ontario. The members of the Board are appointed by Order-in-Council. A quorum of the Board consists of the Chairperson, a psychiatrist and "any other member."

As the *Criminal Code* states, the Chairperson must be a judge of the Federal Court or of a provincial superior, district or county court, or a person who has retired from or is entitled to be appointed to such a judicial office. "Chairperson" by definition includes not only the Chairperson as appointed by the provincial Cabinet, but also any other qualified member whom the Chairperson designates as an "Alternate Chairperson" to act on the Chairperson's behalf. In Ontario, the Chair appoints Alternate Chairs who are usually lawyers with 10 years or more experience, judges or retired judges.

The *Criminal Code* also specifies that each panel for a hearing must consist of three Board members, one of which must be a psychiatrist. Each panel must have a Chairperson or Alternate Chairperson. The Ontario Review Board sits in panels of five consisting of the Chair, two psychiatrists, or one psychiatrist and one psychologist, a lawyer and a public member.

An initial hearing, held after an individual has been found to be not criminally responsible or unfit to stand trial by the courts, is usually conducted in the facility where the accused is detained, such as a psychiatric hospital, court house or detention centre. The Board is required to hold an initial hearing within 45 - 90 days following the court's finding.

An annual hearing is required for those accused who are already under the Board's jurisdiction. Annual reviews are conducted in the provincial psychiatric facility where the accused is detained, penitentiary, or courtrooms.

Those who are declared to be unfit to stand trial are required to be represented by counsel. A large number of the accused who are not criminally responsible are also represented by counsel. At each hearing, evidence from the hospital where the accused is being detained is reviewed. The Board deliberates, then issues a written disposition. If that individual is further detained in hospital, the Board issues a new warrant.

Reasons for dispositions are issued as separate documents sometime later.

## MEMBERS OF THE BOARD

| Member | Date First Appointed | Date Current Term Expires |
|---|---|---|
| **Chair** | | |
| The Honourable D. H. Carruthers, Q.C. | September 11, 1996 | December 10, 2002 |
| **Alternate Chairs (& Legal Members)** | | |
| The Honourable Mr. Justice L.A. Beaulieu | July 4, 1997 | July 3, 2003 |
| The Honourable W. E. Bell | March 30, 1999 | March 29, 2002 |
| The Honourable J.D. Bernstein | October 13, 1999 | October 12, 2002 |
| Mr. F. Bickford | June 18, 1997 | June 17, 2000 |
| Dr. H. Bloom | January 25, 1990 | September 30, 2001 |
| The Honourable J. W. Brooke Q.C. | December 8, 1999 | December 7, 2002 |
| Dr. B.T. Butler | March 1, 1983 | February 29, 2004 |
| Mr. S. R. Clark | October 21,1998 | October 20, 2001 |
| Ms. K. Arnet Connidis | February 10, 1994 | December 16, 2001 |
| Mr. D.F. Dawson | March 24, 1994 | March 23, 2000 |
| The Honourable W.R. Dupont Q.C. | December 2, 1999 | December 1, 2002 |
| Mr. M. Epstein | December 16, 1998 | December 15, 2001 |
| Ms. L. Feld | February 24, 1993 | September 30, 2001 |
| The Honourable Mr. Justice L. Feldman | January 13, 1994 | February 28, 2003 |
| Ms. M. Forestell | June 2, 1993 | September 30, 2001 |
| Mr. H. Garfield | December 2, 1998 | December 1, 2001 |
| Mr. S. Gilbert | July 3, 1996 | February 28, 2003 |
| The Honourable D. Graham | February 25, 1998 | February 24, 2001 |
| The Honourable E. P. Hartt | November 29, 2000 | November 28, 2003 |
| Ms. S. Kert | April 29, 1999 | April 28, 2002 |
| Mr. G. Kilpatrick | June 30, 2000 | June 29, 2003 |
| The Honourable Mr. Justice J.M. Labrosse | May 14, 1997 | May 13, 2003 |
| Ms. J. Leiper | August 23, 1993 | September 30, 2001 |
| Mr. T. Lipson | March 17, 1986 | February 28, 2003 |
| Mr. F. McArdle | December 4, 1996 | December 3, 2001 |
| The Honourable J.F. McCart | September 10, 1997 | September 9, 2000 |
| The Honourable A.B. Rosenberg, Q.C. | December 15, 1999 | December 14, 2002 |
| Mr. P. Ryan | March 17, 1986 | February 28, 2002 |
| Mr. I.D. Scott | October 21, 1998 | October 20, 2001 |
| The Honourable B.B. Shapiro | September 6, 1991 | February 28, 2001 |
| Mr. L. Steacy | March 5, 1997 | March 4, 2003 |
| The Honourable R.J.K. Walmsley | January 13, 1995 | February 28, 2001 |
| The Honourable Mr. Justice D. Watt | December 4, 1996 | December 3, 2002 |
| **Legal Members** | | |
| Mr. K.G. Bernhardt | June 12, 1996 | February 28, 2002 |
| The Honourable Mr. Justice K.C. Binks Q.C. | May 10, 2000 | May 9, 2003 |
| Mr. J.M. Brown | March 30, 1999 | March 29, 2002 |
| Mr. J. N. Buchanan | May 14, 1997 | May 13, 2003 |
| Mr. J.V. Bubba Q.C. | August 1, 2000 | July 31, 2003 |
| Mr. M. J. Bukovac | December 20, 2000 | December 19, 2003 |
| The Honourable Mr. Justice B. Durno | October 21, 1998 | October 20, 2001 |
| Mr. C. Eggert | September 10, 1997 | September 9, 2003 |
| Mr. M. Fair | March 30, 1999 | March 29, 2002 |
| Ms. L.A. Farrell | March 30, 1999 | March 29, 2002 |
| Mr. L. Feigman | March 11, 1996 | February 28, 2003 |
| Mr. N. Forest | April 4, 2001 | April 3, 2004 |
| Mr. H. Ginn | December 16, 1998 | December 15, 2001 |
| Mr. J. Goldberg | May 17, 1999 | May 16, 2002 |

| Member | Date First Appointed | Date Current Term Expires |
|---|---|---|
| The Honourable Guy Y. Goulard Q.C. | June 30, 2000 | June 29, 2003 |
| Mr. K. Harris | December 16, 1998 | December 15, 2001 |
| Mr. S. Horton | April 29, 1999 | April 28, 2002 |
| The Honourable David G. Humphrey Q.C. | March 16, 2000 | March 15, 2003 |
| Ms. S. G. Kerr | September 10, 1997 | September 9, 2003 |
| Mr. R. C. Lee Q.C. | April 29, 1999 | April 28, 2002 |
| The Honourable Mr. Justice H.R. Locke | October 21, 1998 | October 20, 2001 |
| The Honourable Mr. Justice J.D. McCombs | May 14, 1997 | May 13, 2002 |
| Mr. G. Michener Q.C. | January 31, 1996 | February 28, 2002 |
| The Honourable Mr. Justice E.B. Minden | December 4, 1996 | December 3, 2001 |
| The Honourable H.D. Porter | September 5, 2000 | September 4, 2003 |
| Mr. B. Starkman | February 3, 1994 | February 2, 2002 |
| Mr. R.C. Thompson | November 18, 1998 | November 17, 2001 |
| Mr. K.G. Walker | April 29, 1999 | April 28, 2002 |
| Mr. J.A.S. Wilcox | December 2, 1998 | December 1, 2001 |
| Ms. J.K. Zytaruk | April 24, 1997 | April 23, 2003 |
| **Psychiatrists** | | |
| Dr. J. Arboleda-Florez | November 18, 1998 | November 17, 2001 |
| Dr. J.D. Atcheson | June 1, 1997 | February 29, 2004 |
| Dr. R.B. Balmaceda | October 21, 1998 | October 20, 2004 |
| Dr. M.H. Ben-Aron | October 4, 2000 | October 3, 2003 |
| Dr. R.F. Billings | March 1, 1988 | February 29, 2004 |
| Dr. D. Bourget | May 28, 1997 | May 27, 2003 |
| Dr. J.M.W. Bradford | February 1, 1984 | February 29, 2004 |
| Dr. M.M. Brown | June 30, 2000 | June 29, 2003 |
| Dr. R. Buckingham | June 12, 1992 | February 29, 2004 |
| Dr. D.S. Byers | March 1, 1983 | February 29, 2004 |
| Dr. L.E. Cappe | August 24, 1998 | August 23, 2004 |
| Dr. G.A. Chaimowitz | December 4, 1996 | December 3, 2001 |
| Dr. R. D. Chandrasena | December 6, 2000 | December 5, 2003 |
| Dr. A. Côté | November 30, 1989 | February 29, 2004 |
| Dr. P. Darby | June 12, 1992 | February 29, 2004 |
| Dr. J. Ellis | October 21, 1998 | October 20, 2004 |
| Dr. J.C. Ferencz | December 4, 1996 | December 3, 2001 |
| Dr. F.W. Furlong | October 4, 2000 | October 3, 2003 |
| Dr. D.A. Galbraith | November 3, 1994 | November 2, 2003 |
| Dr. G. D. Glancy | March 1, 1988 | February 29, 2004 |
| Dr. J. Gojer | October 21, 1998 | October 20, 2004 |
| Dr. G. Heasman | June 18, 1997 | June 17, 2003 |
| Dr. A.D. Hinsberger | October 6, 1999 | October 5, 2002 |
| Dr. S.J. Hucker | December 11, 1996 | December 10, 2001 |
| Dr. J.J. Kaufman | February 1, 1984 | January 1, 2001 |
| Dr. P.F. Kelly | December 30, 1999 | December 29, 2002 |
| Dr. E. Kingstone | January 13, 1995 | February 29, 2004 |
| Dr. P.E. Klassen | October 13, 1999 | October 12, 2002 |
| Dr. W.J. Komer | February 5, 1997 | February 4, 2003 |
| Dr. R. Kunjukrishnan | December 4, 1996 | December 3, 2001 |
| Dr. P.G. Lynes | June 12, 1992 | February 29, 2004 |
| Dr. S. Malcolmson | December 3, 1997 | March 4, 2004 |
| Dr. P. Max | March 1, 1988 | February 29, 2004 |
| Dr. A. McDonald | August 24, 1998 | August 23, 2004 |
| Dr. A. Miller | January 1, 1979 | February 28, 2001 |
| Dr. B.C.L. Orchard | January 13, 1994 | February 28, 2001 |
| Dr. E. Pohlman | March 1, 1988 | February 29, 2004 |
| Dr. M.V.A. Prakash | August 24, 1998 | August 23, 2004 |
| Dr. P. J. Prendergast | June 12, 1992 | February 29, 2004 |

| Member | Date First Appointed | Date Current Term Expires |
|---|---|---|
| Dr. Q. Rae-Grant | April 20, 1994 | April 19, 2002 |
| Dr. R.B. Sheppard | December 11, 1996 | December 10, 2001 |
| Dr. G.S. Sidhu | December 7, 1994 | February 28, 2002 |
| Dr. W.R.P. Surphlis | March 30, 1999 | March 29, 2002 |
| Dr. S. Swaminath | December 8, 1993 | February 28, 2002 |
| **Psychologists** | | |
| Dr. R. Cormier | December 2, 1998 | December 1, 2001 |
| Dr. G. B. Jones | March 31, 2000 | March 30, 2003 |
| Dr. L.O. Lightfoot | November 20, 1992 | November 2, 2003 |
| Dr. L.C. Litman | February 25, 1998 | February 24, 2004 |
| Dr. D. Nussbaum | December 3, 1997 | December 2, 2003 |
| Dr. N. Pollock | November 3, 1994 | November 2, 2003 |
| Dr. G.M. Turrall | February 24, 1993 | February 29, 2004 |
| Dr. C.D. Webster | December 13, 2000 | December 12, 2003 |
| Dr. P.N. Wright | August 24, 1998 | August 23, 2004 |
| **Public Members** | | |
| Dr. F. Abbott | April 29, 1999 | April 28, 2002 |
| Mr. J. R.J. Cottrell | April 19, 2000 | April 18, 2003 |
| Mr. M. Decaen | October 22, 1997 | October 21, 2003 |
| Ms. L. D. Eccles | February 16, 2000 | February 15, 2003 |
| Ms. H. Elie | December 22, 1999 | December 21, 2002 |
| Ms. B. Genser | October 1, 1997 | September 30, 2000 |
| Mr. W. Gilbert | September 10, 1997 | December 12, 2003 |
| Ms. B. Hodgson | October 4, 2000 | October 3, 2003 |
| Mr. H. Hodowony | October 8, 1997 | October 7, 2000 |
| Mr. T. S. Kelsey | December 20, 2000 | December 19, 2003 |
| Mr. M.P. Keogh | May 13, 1998 | May 12, 2004 |
| Mrs. S. Lee | October 18, 2000 | October 17, 2003 |
| Mr. J.W. Lidstone | March 1, 1988 | February 28, 2003 |
| Ms. G. Lockyer | May 17, 1999 | May 16, 2002 |
| Dr. L.L.Q. Lum | November 19, 1997 | November 18, 2003 |
| Ms. A. MacDonald | September 5, 2000 | September 4, 2003 |
| Mr. A. Mete | March 20, 1997 | March 19, 2003 |
| Mr. M. Money | October 21, 1998 | October 20, 2001 |
| Ms. D. Ormston | May 17, 1999 | May 16, 2002 |
| Mr. A. Péladeau | November 18, 1998 | November 17, 2001 |
| Dr. P.J.H. Pignal | November 3, 1994 | November 2, 2000 |
| Ms. L. Ritchie | March 30, 1999 | March 29, 2003 |
| Ms. J.J. Roy | December 16, 1998 | December 15, 2001 |
| The Honourable J.M. Seneshen | May 17, 1999 | May 16, 2002 |
| Rev. E.D. Sisel, Ph.D. | June 10, 1993 | June 9, 2001 |
| Ms. C. Spearen | September 24, 1997 | September 23, 2000 |
| Mr. D.D. Tennant | October 1, 1997 | September 30, 2003 |
| Ms. S. Wetmore | December 22, 1999 | December 21, 2002 |
| Mr. D.R. Whall | November 18, 1998 | November 17, 2001 |
| Mr. P.E.O. Yorke | May 17, 1999 | May 16, 2002 |

## PERFORMANCE MEASURES AND TARGETS

The core business of the Ontario Review Board is to conduct hearings and issue dispositions in accordance with the *Criminal Code* within the mandatory timeframes - 45 or 90 days after the verdict is rendered as the case may be. After making a disposition, the Review Board must review that disposition within 12 months and every 12 months thereafter for as long as the disposition remains in force.

In addition to initial hearings and annual hearings, the *Criminal Code* provides for a discretionary early review of a disposition at the request of any party other than the hospital. Early review is mandatory if requested by the hospital or if an individual's liberties are restricted for more than seven days.

These are the events that dictate the Board's workload. They can fluctuate dramatically from month to month. The Board's performance is measured by its ability to meet a demanding schedule and deliver quality service.

Occasionally, there are circumstances under which the Board is unable to meet deadlines for hearings, but this represents a small percentage of overall scheduled hearings. Reasons for a cancelled hearing include:

- Adjournment at the request of the party;
- Failure of the Court to notify the Board of new accused; or
- Clerical error.

The Ontario Review Board is in the process of developing performance standards with respect to time frames for dispositions and reasons for dispositions to be issued. Currently, the disposition is generally issued anywhere from two days to two weeks after a hearing or week of hearings. Reasons for dispositions follow. A high priority of the Board is to issue a disposition within five to 10 days after the hearing.

The Board is also pursuing a number of initiatives to facilitate the process, such as:

- Educating Board members;
- Working with other provincial Review Boards to make recommendations to the federal government concerning proposed changes to the *Criminal Code* of Canada;
- Improving administrative efficiency through technology - the Board has recently acquired an automated case management system and is looking at options for better integration and sharing of services with the Consent and Capacity Board located on the same floor as the Ontario Review Board.

The Board will continue to pursue methods of increasing efficiency of operations and processes, and delivering a high quality of service.

Like others in the Agency Sector, the Board is looking at Performance Management for Appointees to Regulatory and Adjudicative Agencies as set out in the November 2000 document. Further details are required from Management Board of Cabinet before the Board can look at applying the process internally.

In addition, the Board is finalizing its Complaint Process following the Management Board of Cabinet's recommendation that the Ontario Review Board have a guide to respond to public complaint.

## REVIEW BOARD PERSONNEL

| Name | Position |
|---|---|
| The Hon. Douglas H. Carruthers, Q.C. | Chair |
| Maureen Forestell | Legal Counsel |
| Jim Curren | Chief Operating Officer |
| John Smith | Systems Officer |
| Maureen Gauder | Finance Administrative Coordinator |
| Sewranie Narine | Secretary to Chair/Counsel |
| Rhea Castro | Distribution Coordinator |
| Yusuf Unsal | Distribution and Records Clerk |
| Claire Lim Yin | Administrative and Financial Assistant |
| Olga Lenskaia | Bilingual Receptionist/Secretary |
| Tricia Bonomo | Database Administrator |
| Janet Martell | Deputy Registrar |
| Roslyn Gunton | Board Order Administrator |
| Victoria Bedrossian | Board Order Administrator |
| Radica Roopsingh | Scheduling Coordinator |
| Helen Schneider | Scheduler |
| Michele Korec | Scheduler |

## FINANCIAL INFORMATION

***2000/2001 Expenditures by Standard Account – Audited Figures***

| DESCRIPTION | 2000-01 ALLOCATION | APPROVED PRESSURES | REVISED ALLOCATION | EXPENDITURES | SURPLUS / DEFICIT** |
|---|---|---|---|---|---|
| Salaries and Wages | 584,900 | 81,500 | 666,400 | 678,702 | (12,302) |
| Benefits | 101,700 | 59,100 | 160,800 | 83,841 | 76,959 |
| Transportation & Communications | 248,800 | - | 248,800 | 442,790 | (193,990) |
| Services | 1,662,900 | 417,800 | 2,080,700 | 1,790,868 | (1) 9,832 |
| Supplies & Equipment | 27,500 | - | 27,500 | 92,811 | (65,311) |
| Sub-total ODOE | 1,939,200 | 417,800 | 2,357,00 | 2,326,469 | 30,531 |
| **Total** | **2,625,800** | **558,400** | **3,184,200** | **3,089,012** | **95,188** |
| Ministry Credit Note to ORB | | | 0 | 499,700 | (499,700) |
| Audited Year End Total: | | | 3,184,200 | 3,588,712 | (404,512) |

**Note**

(1) Includes $499,700 credit note from Corporate Services and Organizational Development Division – credit not reversed at year-end.

## FINANCIAL INFORMATION (CONT'D)

***2000/2001 Expenditures by Function***

| FUNCTION | EXPENDITURES |
|---|---|
| **Salaries & Wages** | 678,702 |
| **Employee Benefits** | 83,844 |
| **Administration** | 499,790 |
| **Annual Hearing** | 1,326,947 |
| **Initial/Early Review Hearings** | 831,297 |
| **Education** | 168,135 |
| **Total** | **3,588,715** |

## FINANCIAL INFORMATION – CHARTED

***Expenditures by Function***